News from Ed Markey

United States Congress **Massachusetts Seventh District**

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GAO FINDS OIL COMPANIES ARE NOT DISCLOSING UP TO $6 BILLION IN CLEANUP LIABILITIES ON NORTH SLOPE OF ALASKA

Markey Calls on SEC Chairman Pitt, Interior Secretary Norton to Warn Investors of and Protect Taxpayers from Huge Potential Losses from Environmental Degradation

WASHINGTON, D.C. --

Congressman Markey (D-MA) today released a report by the General Accounting Office (GAO) finding that oil company liability for removing existing oil and gas infrastructure and restoring the tundra on the North Slope of Alaska may run as high as $6 billion, but existing industry bonds will cover only a fraction of that cleanup.

"Hiding $6 billion in cleanup liabilities is a world-class accounting scandal in the same league as WorldCom or ENRON," said Markey. "The report makes clear that oil companies are refusing to disclose the soaring cost of their existing liability on the North Slope, a potentially massive accounting issue that needs to be addressed before it is sprung on unsuspecting investors, workers and the public. In addition, the report is a powerful indictment of the existing federal and state permitting process, which allows private oil and gas development on public lands using permits that are so vague and financial assurances so inadequate that the public interest in restoring these lands may never be redeemed."

The lawmaker also released two letters he is sending today in response to the report seeking action from the Department of Interior and from the Securities and Exchange Commission (SEC).

In the letter to SEC Chairman Harvey Pitt, Markey noted how recent experience had reminded everyone of the costs of failing to be vigilant when accounting gimmicks are used to hide a company's true financial condition, and he asked the SEC to demand a true accounting of the size and scope of the dismantlement, removal and restoration (DR&R) cleanup liability of each of the oil companies active on the North Slope of Alaska.

In Markey's letter to Interior Secretary Norton, he demanded that the Department of Interior undertake the actions recommended by the GAO report to reform the bonding system. These reforms would ensure that the oil and gas industry, not the public taxpayer, shoulders the risk of failing to set aside the resources to do the necessary restoration of our public land following oil and gas development.

The GAO report raised new concerns about the state of the dismantlement, removal and restoration (DR&R) activities on the state-owned lands in the Prudhoe Bay area. Although the inadequacies of these DR&R activities have long been recognized, the Army Corps of Engineers largely defers to the state regarding permits and restoration requirements on federally-permitted wetlands. Moreover, of immediate concern to Rep. Markey as well as the GAO, are how DR&R the new federal leases on federal land in the 23-million acre National Petroleum Reserve-Alaska (NPRA) will be overseen and ensured. New leasing began there in 1999, and the Bush Administration just issued a second round of leases in NPRA on June 3, 2002.

"It is clear from this report that the Interior Department has delegated its public responsibilities to a few giant oil companies when it comes to restoring public lands," Markey continued. "Both the Department and the industry have a very lax definition of what will be required and how much they will have to pay. The failure to impose those requirements in the leases we are issuing today could guarantee permanent damage on these ecologically-sensitive public lands for centuries to come."

In recommendations for Executive action, the GAO urges the Secretary of Interior to instruct the Bureau of Land Management (BLM) to issue specific dismantlement, removal and restoration (DR&R) requirements and to review the adequacy of its financial assurance program "in order to ensure that the lands of the National Petroleum Reserve-Alaska are properly restored after oil and gas activities cease." (page 78)

In recommendations for Congressional action, the GAO notes that any future decision to open up new federal lands to oil and gas activities should consider including specific restoration goals and specific financial assurances sufficient to meet those goals. (page 79)

Specific findings of the report include:

FEDERALLY-PERMITTED STATE-OWNED LANDS

· None of the five oil companies on the North Slope were willing to provide their estimated DR&R liability, saying the estimates were "for accounting purposes only," not for public review. (page 50)

· The U.S. Army Corps of Engineers issues permits for wetlands, including wetlands on the Prudhoe Bay lands owned by the State of Alaska. "Almost the entire North Slope is designated wetland." (page 30) Nevertheless, the Army Corps "prefers" that the State have primary responsibility with respect to DR&R requirements and less than one percent of the 1,100 permits issued by the Corps on the North Slope include specific restoration requirements. (pages 34,40-41)

· Even though the DR&R requirements have been deferred to the State of Alaska, the State's requirements "offer no specifics", are not fixed, and are largely discretionary. (pages 33-35)

· Two oil companies - BP and Phillips petroleum - expressed a preference for more specific DR&R guidance to relieve uncertainty regarding their obligations (page 44).

· Alaska's lack of guidance is not unique, although New Mexico, Oklahoma, Pennsylvania and Wyoming appear to be much more specific. (page 47)

· Available evidence suggests that the total liability for DR&R is in the billions of dollars. (49) Estimates based on investment level and cost percentage yield a DR&R estimate of $2.7 billion to $6 billion. (page 51)

· Alaska's bonding requirements, while higher than other oil-producing states (58), are woefully insufficient. Bonding requirements sufficient to cover a single oil well are accepted as sufficient for entire oil fields. (page 55)

FEDERALLY OWNED LANDS

· DR&R responsibilities on federally-owned lands are managed by at least three different subagencies of the Department of Interior, each with different and inconsistent DR&R requirements: The National Petroleum Reserve-Alaska (NPR-A) is managed by Interior's Bureau of Land Management (BLM); the Outer Continental Shelf (OCS) is, managed by Interior's Minerals Management Service (MMS); and the Arctic National Wildlife Refuge (where oil and gas development is prohibited) is managed by Interior's Fish and Wildlife Service (FWS.) (page 62)

· BLM has yet to develop DR&R requirements for oil production in the NPR-A. (page 63)

· MMS requires specific well-plugging and abandonment plans for offshore wells, as well as restoration, including the removal of all obstructions in the water. (page 64)

· Only MMS has implemented a general bonding structure that provides for higher bond amounts as the scope of oil industry activity increases. (page 69)

· FWS requires removal of all structures and equipment from wildlife refuges and restoration of the area to its original condition. HR 4, the House Energy bill pending in conference committee, would "compromise" this guidance by adding the phrase "or to a higher and better use." (page 68)

· It will cost more than $100 million just to plug abandoned Navy wells from the 40s and 50s in the NPR-A. (page 73)

· DR&R requirements the for Trans-Alaska Pipeline, for abandoned surface mines, and for abandoned nuclear powerplants are much more specific and explicit for these industries than for the oil and gas industry on the North Slope.(pages 74-76)

CONCLUSIONS

· "The need for federal dismantlement, removal and restoration requirements and assurances that funds will be available to implement those requirements, is becoming increasingly important. (page 77)

· "The BLM and the FWS need to ensure that their financial guarantees are adequate in case a company is unwilling or unable to pay for returning the land to whatever standard has been established. To do otherwise would leave the taxpayer with an unacceptable risk." (page 78)

The entire 107-page GAO report, "Alaska's North Slope: Requirements for Restoring Lands After Oil Production Ceases (GAO-02-357)," is available both on Rep. Markey's website at www.house.gov/Markey and the GAO website at www.gao.gov.

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